

Application. No.: 10/753,971

Filed: August 25, 2005

Response dated: February 8, 2006

Reply to Office Communication of November 8, 2005

### REMARKS

This application contains claims 1-25. Claims 1-23 have been allowed. Claims 24 and 25 have been rejected. Claim 25 has been amended. Claim 26 has been added. Therefore, Claims 1-26 are pending in the Application. Reconsideration of the application based arguments submitted below is respectfully requested.

### Claim Objections

Claim 25 was objected to because of informalities. Applicants have amended these Claims as requested. As such, Applicant respectfully requests that the objection of Claim 25 be withdrawn.

### Claim Rejections - 35 U.S.C. §102

Claim 24 has been rejected under 35 U.S.C. §102(b) based on Quinard (U.S. Patent No. 4,271,974) and Petro (U.S. Patent No 4,913,299). Claim 25 has been rejected under 35 U.S.C. §102(b) based on Minh (U.S. Patent No. 5,148,913) and Porcelli et al. (U.S. Patent No 3,797,688). Applicant would like to respectfully offer that U.S. Patent No. 5,148,913 has been issued to Bonnardel et al. and is entitled "Operating Mechanism of a Three-Position Switch". Applicants searched and found U.S. Patent No. 5,148,931 issued to Minh and have proceeded forward with this Response as though U.S. Patent No. 5,148,931 was the art used in the pending rejections.

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Applicants would like to respectfully offer “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP §2131 citing Verdegaal Bros. V. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the . . . claim.” Id citing Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Also, “[t]he elements must be arranged as required by the claim...” Id citing In re Bond, 910 F.2d 831 (Fed. Cir. 1990).

In regard to claim 24, claim 24 includes features not present in the cited prior art. Claim 24 teaches, among other features, a laterally displaceable tab shaped to mate with a notch on a closure so that when the closure is threaded onto the container the tab and notch and prevent any further rotational movement in a closing direction of the cap relative to the container. Quinard does not teach a laterally displaceable tab. The tab in Quinard is fixed by the collar (7) and cannot be laterally displaced.

Petro does not teach preventing further rotational movement in a closing direction of the cap relative to the container. In fact, Petro is specifically directed at preventing rotational movement in an opening direction only. As best shown in Figs 1-3, 6 and 8, the recesses 38 are designed with the leading edge being a ramped surface (peripheral wall 42) and the trailing edge being a vertical surface. These

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leading edges are designed to allow rotation in a closing direction while the trailing edges are designed to stop rotation in an opening direction. Additionally, Petro includes numerous formations 20 designed to mate with numerous recesses 38. As the closure 10 is rotated in a closing direction relative to the container 12, the first formation 20 will necessarily pass the first two recesses 38 and the second formation 20 will necessarily pass the first recess 20 before the three proximately positioned formations 20 can be aligned with the three corresponding recesses 38. Thus, the teachings of Petro, and its structure, are exactly the opposite of the claimed invention of Claim 24.

In regard to claim 25, amended claim 25 includes features not present in the cited prior art. Amended claim 25 teaches, among other features, a cap having tabs shaped to pass through a channel in a closure cap when one of the tabs is aligned with such the channel to allow separation of the cap relative to the closure cap.

Both Minh and Porcelli et al. both specifically teach designs that are meant to prevent separation of the cap pieces. Please see Minh at column 3 lines 56-68 and Porcelli et al. at column 2 lines 53-62.

Thus, Applicants respectfully request that the rejection of Claims 24 and 25 under 35 U.S.C. §102(b) be withdrawn.

Applicants believe the application is in condition for allowance and such action is respectfully and earnestly solicited.

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Applicants have commented on some of the distinctions between the cited references and the claims to facilitate a better understanding of the present invention. This discussion is not exhaustive of the facets of the invention, and Applicants hereby reserve the right to present additional distinctions as appropriate. Furthermore, while these remarks may employ shortened, more specific, or variant descriptions of some of the claim language, Applicants respectfully note that these remarks are not to be used to create implied limitations in the claims and only the actual wording of the claims should be considered against these references.

The Commissioner is authorized to charge any deficiency or credit any overpayment associated with the filing of this Response to Deposit Account 23-0035

Respectfully submitted,



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CERTIFICATE OF TRANSMISSION

I hereby certify that this Response and Amendment in Application No. 10/753,971 having a filing date of August 25, 2005 is being transmitted via facsimile to:

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Art Unit: 3754  
Examiner: Lien M. Ngo  
Facsimile No.: 571-273-8300

on February 8, 2006

Phillip E. Walker  
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Signature

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Date